REMARKS

Claims 1-22 are pending and under examination in the subject application. Applicants have not added, canceled or amended any claims. Therefore, claims 1-22 will still be pending and under examination.

In the September 29, 2005 Office Action, the Examiner restricted pending claims 1-22 to one of the following allegedly distinct inventions under 35 U.S.C. §121 as follows:

I. Claims 1-5 and 20-22, drawn to an isolated CD44 fragment and an article of manufacture, classified in Class 530, subclass 324-330;

II. Claims 6-8, drawn to an antibody which specifically binds to the CD44 fragment, classified in Class 530, subclass 387.3 and 391.1;

III. Claims 9 and 10, drawn to a method for determining whether an agent increases the amount of CD44 fragment formed in a $CD44^+$ cell comprising contacting the $CD44^+$ cell with the agent, and determining the amount of γ-secretase-generated CD44 fragment present in the $CD44^+$ cell, classified in Class 435, subclass 7.2;

IV. Claim 11, drawn to a method for increasing the amount of CD44 fragment formed in a $CD44^+$ cell, which method comprises introducing into the cell γ-secretase, classified in Class 435, subclass 7.2;

V. Claim 11, drawn to a method for increasing the amount of CD44 fragment formed in a $CD44^+$ cell, which method comprises introducing into the cell γ-secretase agonist, classified in Class 435, subclass 7.2.

VI. Claim 11, drawn to a method for increasing the amount of CD44 fragment formed in a $CD44^+$ cell, which method comprises introducing into the cell γ-secretase and γ-secretase agonist, classified in Class 435, subclass 7.2;

VII. Claims 12-15, drawn to a method for determining the amount of CD44 fragment in a sample comprising contacting the sample with an antibody that binds a CD44 fragment, classified in Class 435, subclass 7.1;

VIII. Claim 18, drawn to a method for treating a subject afflicted with a CD44-associated disorder comprising administering to the subject ν-secretase, wherein the CD44-associated disorder is cancer, classified in Class 424, subclass 185.1;

IX. Claim 18, drawn to a method for treating a subject afflicted with a CD44-associated disorder comprising administering to the subject γ-secretase agonist, wherein the CD44-associated disorder is cancer, classified in Class 424, subclass 185.1;

X. Claim 19, drawn to a method for treating a subject afflicted with a CD44-associated disorder comprising administering to the subject γ-secretase, wherein the CD44-

associated disorder is streptococcal invasion, classified in Class 424, subclass 185.1;

XI. Claim 19, drawn to a method for treating a subject afflicted with a CD44-associated disorder comprising administering to the subject γ-secretase agonist, wherein the CD44-associated disorder is streptococcal invasion, classified in Class 424, subclass 185.1;

XII. Claim 18, drawn to a method for treating a subject afflicted with a CD44-associated disorder with CD44 fragment, wherein the CD44-associated disorder is cancer, classified in Class 424, subclass 185.1; and

XIII. Claim 19, drawn to a method for treating a subject afflicted with a CD44-associated disorder with CD44 fragment, wherein the CD44-associated disorder is streptococcal invasion, classified in Class 424, subclass 185.1.

In response, applicants hereby elect Group I, i.e., claims 1-5 and 20-22, with traverse for prosecution at this time.

Applicants, however, respectfully request that the Examiner reconsider and withdraw the restriction requirement.

Under M.P.E.P. §803, the Examiner must examine the application on the merits if examination can be made without serious burden, even if the application would include claims to distinct or independent inventions. That is, there are two criteria for a proper

requirement for restriction: (1) the invention must be independent and distinct, and (2) there must be a serious burden on the Examiner if restriction were not required.

Applicants respectfully submit that there would not be a serious burden on the Examiner if restriction were not required, because a search of the prior art relevant to the claims of Group I would provide the relevant prior art for Groups II-XIII. In particular, the compositions and methods of Groups XII and XIII employ the CD44 fragment of Group I. Since there is no burden on the Examiner to examine groups I-XIII together in the same application, the Examiner must examine the entire application on the merits.

In view of the foregoing, applicants' maintain that restriction is not proper under 35 U.S.C. §121, and respectfully request that the Examiner reconsider and withdraw the requirement for restriction.

No fee, other than the $1080.00 fee for a five-month extension of time, is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

Respectfully submitted,

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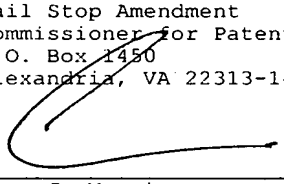

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